IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

THE STATE OF TEXAS, et al,	§	
	§	
Plaintiffs,	§	
	§	
vs.	§	Case No.:
	§	4:20-cv-00957-SDJ
GOOGLE, LLC,	§	
	§	
Defendant.	§	

STATUS CONFERENCE
AND PLAINTIFF STATES' MOTION TO LIFT STAY
TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE SEAN D. JORDAN
UNITED STATES DISTRICT JUDGE

Thursday, March 21, 2024; 10:01 a.m.
Plano, Texas

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March 21, 2024 10:01 a.m.

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P R O C E E D I N G S

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THE COURT: Good morning. Please be seated.

So we're back on cause number 4:20-cv-957, the State of Texas, et al versus Google, LLC. And we can go ahead and start with appearances of counsel and with the Plaintiff States first.

MR. LANIER: Thank you, Your Honor. Mark Lanier on behalf of the plaintiffs here from the Lanier Law Firm. We didn't know if a fistfight might break out, so we brought a slew just in case.

We have James Lloyd from the AG's office. We have Marc Collier here from Norton Rose Fulbright; Geraldine Young from Norton Rose Fullbright; Jonathan Wilkerson from our firm; Roger Alford from Notre Dame; Trevor Young from the AG's office as well; Peter Hillegas from Norton Rose Fulbright. We have back Ashley Keller who has finished his jaunts above.

And I'll warn the Court you have hearings set on motions to dismiss coming up April 18th. With the Court's permission, it looks like I'm in trial in federal court in Helena, Montana, but Mr. Keller will be here to handle those arguments and do all of that.

And we have James Lloyd from the Lanier law firm as well. Thank you, Judge.

THE COURT: All right. Mr. Yetter, you appear to be outnumbered.

MR. YETTER: We are definitely outnumbered, Your Honor. It's good to be back.

On behalf of the defendant, Google, Paul Yetter and my colleague, Mollie Bracewell, and our co-counsel from Freshfields, Rob McCallum.

THE COURT: All right. And I will remind counsel that we also have -- as we had in our previous hearings, we have the audio feed only line for the public on this hearing.

And we are once again joined together for a status conference. And helpfully the parties have submitted a joint status report in which you laid out topics that the parties believe will be appropriate for a discussion today, and they all make sense to me. So the agenda I have basically tracks your joint status report which has three topics, the first being the States' motion to lift stay, which is the -- basically has been fully briefed at this time.

Number two, we have the status of coordination with the MDL, and particularly the proposed coordination order.

And then, number three, we have the States' interrogatory responses.

So I will just move forward in that order unless

the parties would prefer some other order.

Sound okay to you Mr. Lanier?

MR. LANIER: Yes, sir.

THE COURT: Mr. Yetter?

MR. YETTER: Perfect, Your Honor.

THE COURT: So on the States' motion to lift stay, what the parties suggested is if the Court wishes to hear anything on this issue, the parties are prepared to discuss it. I think some discussion of this motion may be helpful.

I have a couple of questions for both sides, and I might as well start with the States. And really, Mr. Lanier -- or I don't know if it's going to be you or Mr. Keller -- it might be helpful just to talk a little bit about the types of discovery that you think you're looking for. Because, you know, and I'll hear this from Mr. Yetter -- it was in their written filing, they make two points about the discovery -- if we leave aside the notion of an order that simply says no discovery is going to be permitted, I see that Google is making two arguments essentially beyond that.

The first is all you really need is the Agreement itself, and you have that. And the second argument that I understand Google is making is, well, even to the extent you might need something beyond that, you already have that information, too, because the discovery that has already

occurred has provided a lot of information about this.

So I would like to get the States' take on those arguments. I may come back to you on questions about the first question, which is should there be no discovery for reasons having to do with Judge Castel's prior order.

MR. LANIER: All good points, Your Honor, which we are going to ask Mr. Collier to address, if it's okay with the Court.

THE COURT: Right. And, Mr. Collier, I know you're aware of this, we get probably the best sound from the podium, the big podium there, so if you can make your remarks from there.

MR. COLLIER: Well, and, Your Honor, I was -- watched Mr. Lanier's Elmo use in prior hearings -- which as I explain when I teach the associates at my firm, you know, sometimes you've got to use the Elmo, and I get blank stares -- so I thought today, to answer your two questions, I might also use the Elmo.

First, I would say, Your Honor, your first question was, Why not just the Agreement itself? You've got the Agreement; you're done. And that, Your Honor, gets answered I think by what are our claims. What are we looking for particularly under the DTPA? Because that's the easiest. There's no dispute we have a live DTPA claim as to misrepresentations.

And just to refresh Your Honor, you know, we pled the DTPA claim. Above paragraph 586, for example, we said what the representations are. And this is, of course, the context against which the discovery would occur. They told everyone, advertisers, publishers, there will be an equal playing field; this will be fair and transparent. And we, you know, we talk about the Section 2 claims, but under the DTPA that's just a flat misrepresentation.

And then, Your Honor, I will skip ahead to why isn't the Agreement enough, your first question. And, you know, I don't like to spend a lot of time with lawyers characterizing with what's pled and what our claims are; I like to go right to it.

So, for example, in paragraph 433 of our Fourth Amended Complaint we plead, after talking about the NBA agreement, which we have just the sole Agreement, indeed, since signing the Agreement, Google and Facebook have been working closely in an ongoing manner to help Facebook recognize users in auctions and bid and win more often.

And then we go -- and I can walk through as many paragraphs as the Court wants, and I probably will in response to your second question -- we explain what some of the post Agreement conduct is. And as Mr. Keller argued in the hearing in the previous motion to dismiss, rarely are any sophisticated Fortune 50 companies going to put in the

agreement the illegal, or anticompetitive, or the misrepresentation acts. But we've smoked some of them out. And what they deal with, Your Honor -- so this, let me -- I want to answer the questions the way you've asked them.

Why isn't the Agreement enough? Because both for our Section 2 claim and for our DTPA misrepresentation claim, we have to show how that Agreement was implemented that made this not a fair and equal exchange and made it not transparent. And so I can go further on the first, but that's --

THE COURT: No. I think that's fine for the moment.

MR. COLLIER: All right. And then back to the complaint, looking at -- oh, you're going to try to make me use the zoom button, but we walk through --

(Mr. Lanier stands to assist Mr. Collier.)

MR. COLLIER: Now I get to tell everyone Mark Lanier is my IT help. There we go.

Mr. Lanier, you're not going to be on standby for me? I mean, he's going to leave me afloat?

THE COURT: He's a man of many talents.

MR. COLLIER: He wants to teach a man to fish, not just give him a plate of fish, clearly.

So what sort of things, in response to your second question, Your Honor, do we need in discovery? What post

Agreement stuff do we need? Well, we explained in our complaint in very much detail -- almost like interrogatory answers as opposed to a complaint -- there are some special secret advantages in the auctions that the Agreement and the post Agreement conduct give.

Now, we can't tell all of this from the Agreement itself, but we do know that Facebook gets some information and speed advantages. We've talked about like, for the record, I'm looking at paragraphs 590 to 592 of the Fourth Amended Complaint, and we walk through some of those. And I can go through as many pages as the Court would like.

But, in essence, Facebook gets an advantage, and match rates. There's nothing transparent or equal playing field about that. And we need to know what that is, and we need to investigate, was Facebook -- because we've got a good faith to believe it -- given an advantage of match rates -- match rates being the advertise, you know, buy and sell side -- helping Facebook recognize users more easily.

Facebook was given certain information that other bidders were not given, other sellers were not given. And then, you know, we go on and on. But basically that's the sort of pathological detail that's not in a contract, it's in the implementation of the contract that makes it an unequal and nontransparent playing field.

THE COURT: All right. Mr. Collier, I think that's

it for right now. I think I'll hear from Mr. Yetter first on that topic of I think Google's belief that you all have all the additional information you would need anyway. And I would like to hear his points on that first, and then I can come back to you if you would like to respond.

So Mr. Yetter, let me start out at the outset with you on this issue, and let's go ahead and start with these existing DTPA claims. We can talk about the Section 2 claim as well. But obviously Google acknowledges that these DTPA claims are live at the moment. We have a motion to dismiss pending on them, but at the moment they are live claims and they're claims made that invoke a number of different states', I'm going to call them, consumer protection statutes.

So let me get your argument, first of all, on why you think just the Agreement itself should be sufficient with regard to these DTPA claims, if I understood you correctly in your written filing.

MR. YETTER: Yes, Your Honor. So I think the two questions that you asked are very related, but let me just start with the Agreement itself. As we put in our papers, Your Honor, this is not the first time this issue of the Network Bidding Agreement has come up with Facebook, it came up in a thoroughly vetted hearing before Judge Castel. And what the plaintiffs, what the States, told Judge Castel is

that the plaintiffs were, quote, "relying mostly on the four corners of the written document," namely the Network Bidding Agreement, as opposed to the wink -- the winks and the nods that we were talking about previously.

So what the plaintiffs told Judge Castel, when this issue was live for Judge Castel, to look at their complaint and decide whether there is a Section 1 claim or not, they told Judge Castel that they were relying mostly on the four corners of the written document. But I believe your two questions are very much related because that hearing wasn't just on the four corners of the document. As you raised, Your Honor, and we put in our papers, there was lots of discovery. And I would like to pause just briefly on that.

In the investigation that Texas did of Google, or that first two million documents, a substantial number of those documents were Facebook-related Network Bidding Agreement-related documents. We have looked back at the search terms that we used, search terms like "FB" for Facebook, and "FAN" for Facebook Audience Network, the name "Facebook" -- it wasn't Meta at the time, it was Facebook -- "Jedi Blue," which is kind of the project name for the contract, and another search term. And that generated over 500,000 documents that were part of that very initial 2020 group of documents.

So at this hearing before Judge Castel, Your Honor,

not only did the States tell Judge Castel that they're relying mostly on the four corners of the written document, but they had 500,000 documents about the Facebook Agreement on which they had written a complaint, amended the complaint, and I believe amended it again by the time that Judge Castel made that ruling.

So our position today is the plaintiffs are coming back to this Court to undo, to essentially reverse, a stay, an order by the MDL judge, Judge Castel. And they don't have a low burden. That is -- that is something that you have to provide to this Court very ample cause. Under Rule 26, this Court -- Rule 26(b)(2)(C) says that a district court must, it's a mandatory, limit discovery when the discovery sought was something that the plaintiffs had ample opportunity to obtain.

So in the MDL, Judge Castel was doing exactly what a MDL judge does. He was streamlining the case. He was looking at nonviable claims. And on a multi-amended complaint, on 500,000 documents produced -- not a small amount of discovery, lots of discovery -- he decided that that the Network Bidding Agreement was -- presented no viable basis for a claim.

Today, the plaintiffs have to come to this Court and say, We didn't get enough discovery, but they haven't told the Court what exactly it is, in their motion to

essentially reverse Judge Castel's motion to stay, what exactly they're looking for. They've got all the documents. They're not saying, We're missing this group of documents. They're not saying, We need this testimony to understand the documents. They didn't tell that to Judge Castel when he was there looking at their complaint. They didn't ask for reconsideration of his ruling because they needed more discovery.

And so, Your Honor, kind of in a nutshell, what we see the plaintiffs doing today is very similar to what they did with Judge Castel's order on the ESI order, on the coordination order, and now with the stay on the Network Bidding Agreement, is they're basically trying to undo decisions that the MDL made, which was his job, that they don't like. But they're not giving this Court the grounds under Rule 26 to find good cause to get -- to reverse the motion.

So we believe that not only have they said, the States said, that the Agreement is what they're relying mostly on, but they had lots of discovery, and they're not giving this Court really any idea of the discovery that they say is missing.

THE COURT: All right. Well, here's how I look at approaching this for both sides. I think the first question is -- for this Court is should the Court allow any discovery

whatsoever with regard to the Network Bidding Agreement. And the reason I had the States file a motion is because we have a prior order from the MDL.

The second question then, to me, is if the States should otherwise have discovery, is the fact that they -- or does the fact that they have the Network Bidding Agreement mean they don't need anything more whatsoever?

And then if we're past that, then I think we're into what I consider to be the proportional discovery part of Rule 26(b). And I don't think that's for me or today or even ruling on this motion. I think the motion is really about those first two parts, and really about the first part.

So I do note that the ruling from Judge Castel has a lot to do with the fact that he was front-loading the consideration of the federal claims, and he really was putting the State claims on hold, which makes total sense. He then had a ruling with regard to the federal claims, and particularly Count Four of the Third Amended Complaint, which had to do with this Agreement in the context of the Section 1 claim under the Sherman Act that had been made by the States -- and we can talk about Section 2 in a moment -- but clearly under Section 1.

As we sit here today and with the case back here, we have these DTPA claims. And I think Google acknowledges that there is relevance -- well, that the NBA agreement is

relevant to those claims assuming the claims survive. And so I'm not sure that there is an argument from Google that the Court should nonetheless stop at the fact that there was a stay in place before the MDL court, but now we have the States' claims well in play. And so it seems to me that there's not that initial breakwater, if you will, of like, well, we shouldn't even consider discovery about this Agreement.

But maybe I'm missing something. I don't think that's Google's argument, but I think the argument maybe goes more to the second point about, well, they already have the NBA agreement; that's the only thing they should have. But let me know if I'm missing something.

MR. YETTER: Your Honor, I think it's a little bit more than that. Yes, they already have the NBA agreement. Yes, their complaint says that they -- it characterizes its relevance as the unlawful agreement, which we're going to read from the four corners of the Agreement -- yes, the State represented that to Judge Castel. But they had more than that, Your Honor.

And that's, I believe, that's probably one of the reasons why Judge Castel at that time, once he made that ruling, the DTPA claims of the States existed at that time back in 2022. It wasn't like they're new to this case now on remand in 2023 and 2024. And Judge Castel ordered that stay

on all discovery of the NBA. It wasn't just because they had the Agreement itself, but they had $500,000 -- excuse me, 500,000 documents of lots of discovery, and some of it is decided in their own complaint.

And so the combination of they had the Agreement, which they say it pivotal, which they say is key, but they've had lots of opportunity to take discovery. And under Rule 26(b)(2)(C), they had, quote, ample opportunity to obtain that discovery. Judge Castel issued that stay. The Plaintiff States never went back to him and said, We have DTPA claims that we need more discovery on the Network Bidding Agreement.

And it's only now, Your Honor, when you first -- when this first -- case first came back in November, you told both sides, Tell me what discovery needs to be done because I need to set a schedule for this case. And in December, both sides gave you their views of what discovery needed to be done. And Your Honor might recall that the States said nothing about the Network Bidding Agreement; that didn't come up until 2024. And then you said -- when it did finally come up, you said, Well, you're going to have to file a motion on that. And it wasn't until earlier this month in March.

But, Your Honor, I think that speaks volumes about what these plaintiffs, as we see --

THE COURT: Mr. Yetter, let me just stop you just

for a moment.

MR. YETTER: Sure.

THE COURT: But my understanding is Judge Castel didn't, at least in his order, didn't specify this is a 26(b)(2)(C) order.

MR. YETTER: No, he didn't.

THE COURT: And so it sounds to me like, like the argument you're making might be something that Google might be raising with this Court of you should do a motion for -- some sort of a motion for protection under 26(b)(2)(C). I don't -- in other words, the first step for me is looking at what Judge Castel did. I don't see a 26(b)(2)(C) order.

What I see is a judge who I think had kept things paused while he considered some substantive issues having to do with a motion to dismiss. And I hear your point about, well, the States had also gotten all this discovery. But what I don't have in front of me from Judge Castel is any, if you will, additional analysis or order saying, And, by the way, this should also be stayed under Rule 26(b)(2)(C), which is a different reason --

MR. YETTER: It is, Your Honor.

THE COURT: -- that you might stay discovery. I don't have that in front of me. So as far as I'm concerned, the reason that I understand he made the stay is no longer present in this sense. These, the state law claims, are

live, we're working through them. It is a separate question to me, then, whether or not there ought to be some protection or limitation of that discovery.

And I hear the arguments you're making. You're making arguments about proportionality. You're making arguments about ample time and wasn't completed. You may have a number of arguments. But you understand I'm going to the antecedent question. The antecedent question is: Is there some order from the MDL or some other reason why this Court should say -- should not even get to those parameters of Rule 26(b)? I don't see that there is.

And so I'll let you continue in a moment, but let me move on to what I think is then the second question, which is: Well, what about the NBA agreement, the Network Bidding Agreement, itself? Why would they need -- why would the States need anything more than that? I've heard from Mr. Collier. But I will say something that struck me is, I don't know if Google sees these statutes as some sort of strict liability or something like that, but these, at least from my review at this point, these are statutes from the various states that have various scienter requirements. Even the Texas statute, which generally does not include scienter requirement -- and as you know, there is no pervasive scienter requirements, but there is -- there are scienter requirements baked into certain parts of the Texas DTPA, and

some of those have been invoked in this case, which I'm sure you're aware of. So I'm thinking of 17.46(b)(24), amongst other provisions. (B)(24) strikes me because it's got -- it's, you know, failing to disclose information concerning goods or services which was known at the time. If such failure to disclose was intended to induce a consumer into a transaction the consumer would not have entered had the information been disclosed. That's one of a few that has sort of a scienter requirement baked in with. I'm not going to go through it.

The other states have -- I'm just using these as examples, by the way. I mean, we've got other state statutes, for example, that have -- that have been invoked that have particular provisions that would pertain to willful conduct, for example, so -- and I'm looking at like South Carolina; Florida seems to have something like that.

What I'm basically saying is these DTPA statutes, in various portions of them, seem to have scienter requirements. So I could see -- I guess I would see more power in the argument you're making about you don't need anything more than the Agreement itself if this was some sort of strict liability type situation or -- or perhaps the question, under Section 1, is the Agreement in and of itself unlawful.

But it seems to me that the DTPA claims and the way

that these statutes work bring in, to some extent and in certain aspects, some scienter issues. And I come back to, in that regard, the fact that under Rule 26(b), the -- you know, the bar is relatively low generally speaking on discovery. I mean, it's not as low as it used to be. And this comes to your arguments.

But, you know, the relevant language, as you know, is that parties can obtain discovery regarding any non-privileged matter that is relevant to any parties' claim or defense -- and this is where it's changed, right -- and proportional to the needs of the case considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.

So we all know that this rule used to be much more wide open than it is now. And what I think are some of the arguments Google really wants to press have to do with that latter part of the rule rather than the early part of the rule, which is just saying as a general matter, you get to look into non-privileged things that are relevant.

Now, particularly looking at these -- I'm using the scienter as an example, and given that the bar is pretty low,

I think if we're just speaking generally, there's going to be some relevant information, it seems to me. Then I'm getting -- and then I find myself getting to part three here, to me, which is the arguments that I saw in your filings and that you're articulating today that really have to do with getting into the weeds or getting pretty granular on, okay, if they're going to get any discovery, or if there's -- if we're going even look at the States getting anything more, then we need to look at the entirety of Rule 26(b). And you've mentioned some of the other, you know, protections that are in the rule where discovery is unreasonably cumulative, where a party had ample opportunity to obtain the information.

So those are points that we're all familiar with because we see them in motions for protection or we see them in those types of issues. That to me is a distinct question from again the first question in front of me, which is is the stay lifted as to any discovery on the NBA does not mean you're -- you know, the door is wide open, let's get into reams of discovery on this.

So if you see where I'm coming from, Mr. Yetter, it's this motion raises the question whether this Court's going to say King's X, no discovery whatsoever on this, we're done, based on Judge Castel's prior order or for some other reason.

And my review of these materials, my review of the parties' pleadings and controlling law, is that even if we're just talking about the DTPA claims, I think there's some opening there.

And we can talk about Section 2. I don't know if you have more you want to say on this, because I do want to ask but the Section 2 argument that you've made as well.

MR. YETTER: All right. I do have one last point, Your Honor, because I hear where you're going. But if this were a situation where they, the States, were sending us the Network Bidding Agreement discovery on a clean slate and there was no stay in place, I would -- we would agree with the Court that the only thing you need to look at is the relevance and, you know, and do they already have enough and that sort of thing. But this is not in that context.

What the States are asking the Court to do is essentially to lift an order of the MDL judge. And that's why we think, Your Honor, that that third step that you've been talking about, which is the cumulative, duplicative, ample opportunity to obtain, under 26 (b)(2)(C), that we believe that's part of the decision for this Court. And I know that that would get -- the Court has said that would get into the granular of what exactly are they asking for, but that's what we believe the States should have presented to the Court -- this is what we need, this is what we don't

have -- and they haven't done that, Your Honor.

So we think their burden is much more than just normal discovery, is there relevance to this discovery. Their burden is to convince the Court that to lift a motion to stay that was put in place by the MDL judge. And it's more than just proving relevance.

Their last brief, their reply brief, hung essentially their whole position on, well, it's clearly relevant. And, you know, Your Honor, you're right, it was at one time relevant we believe because we gave them investigative materials and discovery about it early on.

At this point, they have to show the Court that -- more than that. It's not just relevance. It's that we don't have it, and we couldn't have gotten it, and there is a good reason for us to get it.

If discovery in this case is a book, the States are acting like we're in the middle of the book. We think we're in the last couple of chapters. And that's why that issue of burden and the opportunity -- prior opportunity to obtain it, we think is relevant today to this Court's decision on this motion.

THE COURT: All right, Mr. Yetter. Well, I may -- I don't know that I agree with you on how to read Judge Castel's order and what the Court is looking at here because his order was just a complete stay of discovery and it was

not, as far as I can tell, a stay that was premised on Because you've gotten everything you need, because there's no more that you would need to get; it was a pause based on other reasons that I think are no longer present. And precisely because it's not a stay that said, well, you can't get any more of these types of documents or this type of information because of 26(b), because it's not that type of order, it's just a wholesale block. I think what this Court would be doing is saying, We're not doing a wholesale block. It still leaves the question, if it's raised by the parties, about what exactly type of discovery would be allowable on this. So I think I see his order a little bit differently.

Let me ask you, because we've talked about the DTPA claims, you know, the States' position is, you know, this is also relevant on the Sherman Act Section 2 claim, and the parties have a dispute about this. And I would like to get your comments on that, because I may be missing this, but I've gone through Judge Castel's September 2022 order very carefully more than once, and it's a very thorough, it's very thoughtful, opinion, and I just don't see that he dismissed the Section 2 claims. And the States asserted them in the Third Amended Complaint. We've checked that. I can give you the paragraphs, but I'm sure you know them by heart.

But I will say that Judge Castel was very I think thorough and careful about how he discussed the claims. So,

you know, at page -- I mean, you all know the cite, it is now in the Fed Supp., it's at 627 F.Supp.3d 346. But like at page 366 of that order he describes the four claims asserted in the Third Amended Complaint. He carefully distinguishes for claims of violations of Section 1 versus Section 2. And he describes Count Four, which concerns the Network Bidding Agreement as asserting only Section 1 claims.

And I will note that he's careful also to note where the States assert claims that are violations of both Section 1 and Section 2. So, for example, were they both at play in a particular count? Count Three is an example of that. His discussion of Count Three talks about how this is an assertion of violation of both Sections 1 and 2.

And I will say that in his entire discussion of Count Four, which is at pages 370 to 377, a very thorough discussion, it's focused, as far as I can tell, entirely on restraint of trade analysis under Section 1. I just don't see in his order anywhere where he is saying the Section 2 claim is gone, also.

And so I wanted to get your, you know, thoughts on that, because if I'm missing something, you can let me know, but it seems to me that he did not dismiss that claim. And so then the question becomes, is there some reason that's otherwise not in front of the Court. It's back in the Fourth Amended Complaint.

But I've read your written filing on it, and that prompted me to go back through again Judge Castel's order. And I'm not seeing it.

MR. YETTER: Your Honor, we -- I don't think you're reading this incorrect in terms of Judge Castel's focus. However, the Section 2 claim, much like the DTPA claims that the States are making, is based on this concept of an unlawful agreement. So what they haven't done for the Court is explain how -- if that Agreement's not unlawful, how does it fit within a monopolization -- a Section 2 claim, a monopolization claim. And that's what they haven't given the Court any explanation about.

It's not like you just get to talk about anything. How does a lawful Agreement, a lawful Network Bidding Agreement, fit within and have relevance to their monopolization claim. And that's what the States have not explained to the Court.

I will also say that -- and I'm sure the Court knows this, but Judge Castel had this same issue come before him with the private plaintiffs in the MDL, and he dismissed their monopolization claim based on the Network Bidding Agreement. And so I think he believed that if that Agreement -- or he concluded that Agreement was not lawful -- was not unlawful, that it has no place even in their monopolization claim, the DTPA claims are no longer in the

MDL because the private plaintiffs don't have those. But the same principle we believe applies here.

It's not a Section 2 -- relevant to Section 2 because it's not unlawful, it is a valid agreement, according to Judge Castel's prior order, we don't think it's relevant to the DTPA claims as well. But the plaintiffs don't explain how it is relevant to their Section 2 claim, Your Honor.

THE COURT: All right. And I'll hear from the plaintiffs on that. Is there something more you want to say at the moment on this topic?

MR. YETTER: Your Honor, I think you've been very patient and given me time to say plenty. So if I have something, I will flag you, but I'll wait until after counsel speaks.

THE COURT: All right. Let me let Mr. Collier respond on those issues.

And maybe you can speak to both topics. You can respond regarding my discussion with Mr. Yetter on the DTPA issue, and I have a feeling you'll have something to say on the Section 2 issue.

MR. COLLIER: Very little to say, Your Honor, because your analysis is correct. The issue before the Court today is simply, Is the courthouse door fully and forever barred to us taking evidence as to what Google and Facebook did under the NBA agreement? That's what we did, Your Honor.

We moved to lift the stay. We didn't move to take a certain deposition. We didn't move to take even the Facebook deposition. Now, that's coming, of course. And when it comes, we have a process in place for that, which is -- Mr. Moran is sitting right here -- I assure you five minutes after we issue, you know, corporate representative depositions to figure out how this Agreement was implemented, which we don't have.

And if you listen carefully, Mr. Yetter never at any point said, They have everything. What he said was, They've got lots, like just hundreds of thousands of pages, which the Court has addressed before. You don't just get to point to the haystack and go, Hopefully, it's in there, and tell me it's not. We don't have anything since 2022 because of the stay. So we know right now there's things we don't have without even getting into the details.

So the issue before the Court is should the stay be lifted. And we have -- now that we've gone through this hearing, it's clear we have DTPA claims that everyone admits -- and I've walked through covering not just the Agreement, but the post Agreement conduct. And so we are seeking a lift of the stay for relevant information.

And Your Honor is exactly correct. If they want to make proportionality and burden objections, well, they could have already done so. We didn't withhold bringing this issue

before the Court as has been portrayed. We served DTPA discovery on November 10th, 2023, as soon as we came back here. And Google didn't answer it, they said, because it's stayed.

And then we come to the Court hearings in December and January and we say, Hey, this is an issue. And the Court said correctly, Well, you're going to need to file a motion. So we filed a motion immediately.

And here we are just simply wanting the courthouse doors open, with 38, 40 days of discovery left. We've had the clock run out on us for months, and months, and months saying, Okay, this is relevant and material discovery. Once the discovery -- well, first of all, we've already served some discovery.

So if you talk about burdens, why aren't they here saying, Judge, this is what they served on me and here's my evidence as to why it's burdensome. They don't even acknowledge we've served the written discovery.

But once we serve the discovery, I'm sure Mr. Moran will have first shot to: Does it meet proportionality? Because we've only got a certain amount of time, Judge. We just want to know what happened. The Agreement says that various money will flow back and forth. Of course, it doesn't say how much. We need information on that. What money has changed hands?

So I think the Court has it right on what's limited before the Court is, can we open these doors. And I could say a lot about their characterizations of when we're arguing a section -- well, I'll go ahead and say it -- you've asked me to comment a little bit about Section 1 versus Section 2.

Mr. Keller, Your Honor, they keep saying when we were arguing a Section 1 motion to dismiss, said mostly it's on the Agreement. Well, that's the nature of a Section 1 claim. Is there a contractual, you know, kind of almost per se -- you know, I'm a shade tree and I trust lawyers, and I'm really nervous when Professor Alford and others are here to grade my papers. But essentially, is there something about the four corners of that Agreement that violates Section 1? So, of course, Mr. Keller, Well, mostly we're going to rely on the four corners, Judge.

But that's not our Section 2 claim. That's not our DTPA claim, which takes into account the monopolistic conduct or the conduct that was misrepresented as being equal, or, as Your Honor points out, the conduct that they kept secret.

And they kept Project Jedi secret, even when it came out, Your Honor, motion after motion to keep that under seal. And when it finally broke, it's in 500 papers across the country, this secret deal. That's the essence of the DTPA claim, of failure to disclose and lying.

So --

THE COURT: Mr. Collier, is there something you want to say about Mr. Yetter's argument that the States have not explained how the NBA is relevant if it's not, if you will, unlawful under Section 1?

MR. COLLIER: Well, if it's -- there is no -- Mr. Alford -- Professor Alford is staring at me, so I'm feeling a little heat right now.

Otherwise lawful contracts can be a part -- you know, the only unlawful was, is it per se unlawful under Section 1 on a motion to dismiss? Not, is it part of the scheme to acquire or maintain a monopoly under Section 2? That can happen all the time. Otherwise, not per se in the legal contracts between two actors in a marketplace that don't violate Section 1 are part of the relevant conduct in Section 2.

THE COURT: All right, Mr. Collier. Anything else you wanted to say on this issue?

MR. COLLIER: On this issue, what I will say, Your Honor, is the path forward I believe -- because I don't want to just leave the Court hanging -- we've served discovery in November. I will pledge to the Court we'll serve our 30(b)(6) notice on this of what we want from Google by next Friday. We'll serve our third-party subpoena to Facebook. Which, by the way -- they say we've got all the stuff -- we've never got a Facebook document, not one. We've never

heard what Facebook had to say about their part of the deal, or what Google told them, when it goes to Your Honor's scienter point. There's nothing in that stack of 500,000 documents, that haystack, that has anything to do with what Facebook is going to say Google knew and attempted to accomplish.

So there's a path forward on this. We lift the stay -- or hopefully, Your Honor. We're going to send out proportionate discovery. We don't have lots of time, Your Honor. If nothing else, if not just our kind of code of ethics and following the rules, we just don't have a lot of time.

We're going to send out that discovery. We've already got some out that they should answer and they should be ordered to answer, so we can start to frame this dispute. We'll serve our two 30(b)(6) notices of deposition, or one to the nonparty, one to them. And then either Your Honor, if you want it, or Special Master Moran, if there's any proportionality, we'll deal with it in the appropriate course when we have the actual requests.

THE COURT: All right. Thank you, Mr. Collier.

Mr. Yetter, I'll give you another opportunity to speak. Mr. Collier addressed some of the items we were talking about.

MR. YETTER: Thank you, Your Honor. Just briefly,

two points.

I still didn't hear how a lawful agreement fits within their monopolization Section 2 claim. I'm not sure how it does, other than counsel simply saying lots of stuff does. Nor do I see how a lawful agreement fits within their DTPA claim.

But setting that aside, the other point that counsel made was they sent us discovery in November about the Network Bidding Agreement. I don't believe that's accurate. They did send us a ton of discovery, over a hundred requests for production, about their DTPA claims. I don't believe that the Network Bidding Agreement was part of that.

They told -- they told this Court that it's just that DTPA discovery is just going to be a little bit more, we'll need a few more custodians and you'll use the same search terms. That's not where they are today. We're having a lot more custodians and we're having new search terms.

But fundamentally, Your Honor, we believe that what this Network Bidding Agreement discovery that the States say they will send, is basically starting a whole new phase of the DTPA or Section 2 discovery afresh. We haven't even seen it yet.

So we're talking about, as counsel said, six weeks left before the discovery cutoff, and we still haven't even seen this discovery that -- on the Network Bidding Agreement.

So those are my only comments, Your Honor.

THE COURT: All right. Thank you, Mr. Yetter.

Mr. Collier, if you have something you want to say, you can.

MR. COLLIER: Yes. I will be brief. I promise, Your Honor.

Mr. Yetter admits that our November discovery was on our DTPA claims. And laptop on an Elmo -- I may need my technical support guru -- but our discovery was on the AdTech Auction Mechanics, Your Honor. And we wanted to know everything, but in particular we wanted to know about the open bidding including Jedi, Jedi+ and Jedi++. We asked for this, Your Honor, and we were just sent away. And we asked for this in November as soon as we got back to this Court, because the Texas DTPA claims for Texas and, of course, the other states, you know, the analogous, are critical to us.

THE COURT: All right. Thank you, Mr. Collier.

So the second issue I have -- I'm going to move to the second issue unless there is anything else counsel need to say on this. I see you shaking your heads in the negative, so we'll move to the second topic, which is the coordination order concerning the MDL.

So I'm going to just briefly go through our history on this. As counsel are aware, on February 26, this Court entered an order regarding coordination of discovery. That

order was issued after substantial input from the parties, as well as the special master. But, of course, that order provided that it would not go into effect unless and until it was entered both by this Court and by the MDL Court. So baked into the order was the notion that this is not going to happen unless we have both Courts signing off on it.

On March 14, 2024, this was presented, my understanding, to Judge Castel. He entered an order on that date, and it confirmed that the coordination order would not be entered in the MDL matter. The order works through -- I mean, it's not a long order, but I think it expresses what it needs to about the reasons why Judge Castel did not think that would be prudent for the MDL matter.

And so I welcome comments from the parties about, you know, moving forward in this case, what you think about opportunities for coordination or what you think about the effect of the coordination order not being in place.

I am -- I'm aware -- by the way, I have read the transcript of your comments to the special master about this. So I know at that time you were all digesting this and you've had more time to think about it.

So maybe I can start with Mr. Lanier --

MR. LANIER: Yes.

THE COURT: -- and any comments you want to make about what this means going forward in discovery.

MR. LANIER: Thank you, Your Honor.

A coordination order exists for the benefit of the Court, obviously, but it mainly exists for the benefit of the parties. It's just an easier way to cut the diamond. I look at this, and I would think that even if the judge never entered an order, the parties on their own would figure out a way to coordinate to mutual benefit.

So, for example, we have depositions that we set. It seems logical that Google might not wish to produce the same witness twice, in our case and in the MDL. And so Google would say, Hey, can we coordinate and figure out some way to do this once?

By the same token, we want documents and things that are produced in other discovery. We can go and ape the discovery requests in the other case and just put it down and mimic it, or we can just say, Give us the discovery that was relevant in the other case that's relevant similarly in ours. Either way, it's just adding extra steps to get to an end result that we're entitled to.

I view, at this point in my career, discovery not as a game, or but rather means to an end. And the goal is not to obfuscate, to hide, and to make things arduous and difficult. The goal is to figure out as expeditiously and efficiently as possible how to get the relevant information to the other side so that we can go about the truth process,

which is our American judicial system.

I will add to the record, to have an opportunity to use the Elmo, an email that we have received from Michael Wolin, as of March 20th. And the email was to Z, and Michael Wolin is one of the trial attorneys for the DOJ in the antitrust matter.

He writes, for the record, "Zeke, we understand from the March 14th joint status report filed by the Texas-led state plaintiffs and Google that the parties plan to discuss the status of the coordination order in the Eastern District of Texas case during the March 21 conference before Special Master David Moran."

Well, actually, it's in front of El Jefe himself.

"The United States believes that the coordination order previously signed by Judge Jordan, Docket 266, should be rendered effective notwithstanding Judge Castel's order in SDNY, declining to order further coordination. Several provisions, in particular paragraphs 3.f., 6.b., and 6.c., are vital to creating a level playing field between Google, on" the one hand -- or "on one hand," excuse me, "and the Texas and Virginia plaintiffs, on the other hand. Those provisions as applied to the Virginia plaintiffs, should not be dependent on an action by Judge Castel and are consistent with the provisions already ordered by the Court in the Virginia case in our coordination order.

"Regards, Michael Wolin."

You know, the parties are seeking to find some way to make this efficient and effective. And part of me just wants to say, Fine. If Google doesn't want to enter into a good coordination order that works with both sides, we don't need a coordination order, we'll take depositions twice. We'll just file discovery requests and say, Give us all the discovery you gave to the other folks.

We can go that route. We can do that. The problem might come with our discovery cutoff. What if there's a third party, say AT&T, that produces discovery to Google in the MDL case three weeks after our discovery cutoff? If there's no coordination order, we don't have a chance to get that in our case within the discovery cutoff.

So absent a discovery -- a coordination order, what are we left with? Oh, we'll file a motion in front of you and say, We know we're past discovery, but this has been produced in the other case and it's relevant to ours, and we would like it anyway. And so again it's just more steps that takes away from the judicial economy and the lawyer economy on trying to get to the end.

But we think that you had a well-reasoned order. We understand Judge Castel has not entered that order. And Mr. Keller and I have appeared in front of him on numerous occasions, and he is a strong jurist, and we have no fuss

with his legal acumen and all. And I can't presume to say why he has said what he has said for his plaintiffs.

But for your court and for your plaintiffs, it still makes sense to us to have the coordination order in place. But if not, it just means that it's not as efficient, and we'll go after it anyway.

THE COURT: All right. Thank you, Mr. Lanier.

Mr. Yetter? Oh, okay. It's going to be Mr. McCallum.

MR. MCCALLUM: Good morning, Your Honor. Good to see you again.

THE COURT: Good morning. Good to see you.

MR. MCCALLUM: I think as Your Honor put it, the coordination order was the product of a lot of input from both sides and also with some input from the special master. There was a negotiation. There was a lot of back and forth. From Google's perspective, there were benefits and responsibilities to both sides as a part and parcel of signing onto a coordination agreement. And Google was -- in that context of that negotiation, Google was prepared to sign up to a number of responsibilities and to make a number of concessions in exchange for one key benefit. And the key benefit to Google, in the context of the coordination order, was protection for Google's witnesses in terms of coordination of depositions. That was the key thing that

Google was signing up to, and we were prepared to make some concessions to get that.

So now we're in the position that Judge Castel has, of course, we all know, declined to enter the order in the MDL. And so the effect of that, from a practical perspective, for Google is that we have lost that protection, the one thing that we were bargaining for in the context of the coordination order.

So it's our position that sitting here today, we don't think we should be bound by the concessions that we were prepared to make in exchange for that protection because the result of entering a coordination order in its current form without the protection to Google would simply be a one-sided order in favor of plaintiffs, with no protections to Google.

And it was precisely for that reason that I think Your Honor alluded to this in your opening remarks, that we insist as part of the terms of the coordination order, that it would not go into effect unless it was entered in both courts, but for that very reason.

So Google finds itself in the position where we have to abide by the orders of Judge Castel and, of course, the orders of Your Honor in this Court. And Google will, of course, abide by both sets of orders. But that puts us in a situation where Judge Castel has ruled the coordination

between this case and the MDL is not appropriate, and so we have to honor that order and we will abide by that order. He's said that discovery is winding down. And I think you alluded to some of the reasons behind that relatively short order, that he said, in effect, that now is not the time to begin cross-noticing depositions in Texas.

So the situation here today is we don't think it's appropriate to enter the coordination order as it was negotiated on the assumption that it would be entered in the MDL. However, we made it very, very clear to the plaintiffs that we're happy to meet and confer with them in good faith to work through some of the issues that we see arising from that, particularly with respect to the email that was shown to the Court from the Department of Justice.

We've actually had productive discussions over the last two days where Google has made it very clear to plaintiffs that as regards Virginia, we intend to do everything that we can to sort of continue the effectuation of the existing coordination order that was entered in Virginia and the MDL. And we have made it very clear to plaintiffs that we are prepared to make Google -- continue to make Google's documents and data available and to otherwise coordinate with respect to that existing coordination order. But the situation we find ourselves in with respect the MDL is somewhat more complicated.

THE COURT: Right. Well, certainly as to your point that no one is bound by the coordination order, I agree, and I assume everybody in the room agrees, that the order is very clear, it's not effective -- and that means no one's bound by any provision in it -- unless and until both Courts have entered it. So as you've noted, both sides are not bound by anything in that order.

However, as you've noted and as Mr. Lanier has noted, it certainly and obviously makes sense for the parties to do whatever they can to work together to make the process of depositions, I think particularly as you've noted, but also other discovery, as efficient as possible.

And so I don't think there's anything about the fact that the order is not going to be in place here in the MDL that prevents the parties from coordinating on the scheduling of depositions, you know, for this case and the MDL case. I'm sure the parties can work together to try to do that and make it efficient.

And beyond that, Mr. Lanier talked about some things you could do that might allow the parties to coordinate as much possible between these actions. But the way I see it going forward is it's going to be up to the parties in the first instance to work together and find ways to be as efficient as possible and hopefully, per the email that Mr. Lanier showed, as much as possible under the kinds

of agreements you made in the coordination agreement, even though no one's bound by that. And there may be aspects of that that the parties are, you know, not going to agree on, now that that order is off the table, but the spirit of that order had everything to do with the parties' commitment to save resources and to move forward efficiently.

So again, I see this as, in the first instance, the parties trying to work together. Beyond that, you know, the Court will be ready to intervene as necessary. We have the special master who can help on discovery issues that arise. But I think that -- I think it's fair to say my hope is the same as yours, that you'll be able to work together as best as possible going forward.

MR. MCCALLUM: And we will do that, Your Honor.

And just to be clear, it remains very much in Google's interest, as you can imagine, to coordinate on deposition scheduling, and we will work in good faith to do that. Our point is simply that the agreement as it was drafted contains concessions that we do not think should necessarily remain in place.

THE COURT: Right. And the underlying principle that I probably don't need to say, but I will say it, is both sides are going to get the discovery they need in this case. They're going to get it. And if it means people are deposed twice, then that's what's going to happen.

MR. MCCALLUM: Understood, Your Honor.

THE COURT: All right. I think we can move to the last issue, unless the parties have anything else they want to talk about on item two.

So I think moving on to the third topic, we have the States' interrogatory responses. I don't know if that's you, Mr. McCallum, or you, Mr. Yetter. This was when you filed your status report, a bit of a moving target, I think, but something that you identified that we would need to discuss. So Mr. Yetter, you can proceed.

MR. YETTER: Yes. Thank you, Your Honor. "Moving target" is the perfect description, and the target is now, as the Court is well aware, the States have gone from representing all of the above consumers, competitors, users, advertisers, and publishers, to dropping -- that was in prior -- that was last Fall, to dropping -- eleven of the States dropping their parens positions, and Texas saying that it has as a policy against proceeding in parens patriae.

And then in February, everybody reverting back, all 17 States now say they are acting in both in parens and some in sovereign.

And now, in March, Your Honor, they've dropped all of their -- they, 16 of the 17 plaintiffs, have dropped all of their damages claims, restitution claims, and disgorgement claims. Only Puerto Rico has maintained those claims. That

is the state, not -- maybe, perhaps, not coincidentally, that has produced no documents to us, no retention policies, almost basically nothing.

And we raise it, Your Honor, because we weren't -- we are still digesting the impact of that claim. Now all 17 States saying they are still seeking civil penalties, all as in their parens capacity, some in their sovereign capacity, for both DTPA and injunctive -- excuse me, for DTPA claims and injunctive relief for both antitrust and DTPA claims. Puerto Rico is the outlier in terms of seeking damages.

But we are still digesting how that affects standing of these claims -- these States who under -- as the Court knows, under some of the DTPA claims, there's no requirement to prove reliance or damages. And so without injury, under *TransUnion*, there may be an issue of standing. We're still digesting that. And it certainly does impact discovery.

So we wanted to raise it, make sure the Court was aware that even now, just a few weeks before the end of fact discovery, the States have taken what we see as a pretty significant change in position. And we're obviously going to deal with it and figure out where it goes, but we just wanted to make sure that we brought it up to the Court.

THE COURT: Mr. Yetter, just one quick question.

MR. YETTER: Sure.

THE COURT: Is any of that you think going to be something you're going to raise in regard to the motion to dismiss beyond what's already been raised?

MR. YETTER: That is a very good question, Your Honor. And we are -- this is a somewhat unusual situation, and the issues are perhaps nuanced on this issue of seeking federal standing for state claims in which you do not have to prove damages or reliance; in other words, injury. And *TransUnion* says for private plaintiffs, if you don't have injury, you don't have federal standing to seek civil fines.

But we're looking at that, Your Honor. And if we do intend to bring it up, we will raise it promptly with the Court and ask for permission to supplement our briefing.

THE COURT: Understood. All right. Thank you, Mr. Yetter.

Mr. Lanier?

MR. LANIER: I don't think I have a lot to add to that, Your Honor. I'm glad we weren't chided for dropping claims. I think that makes it a little bit easier. Numerous plaintiffs have been chided for dropping claims. But we have dropped, as Mr. Yetter reflected.

We have the process -- you had asked us in the last hearing to go through a process to make sure that everyone's aware of how the various states are working together to try and address discovery needs. And we filed that with the

Court. We gave a copy to Google. We've never heard anything back from Google on that. I think, to some degree, your instructions to do that have helped us probably clarify some of this. And so some of the credit for this actually probably flows to the Court.

But I can tell you that you've got 17 governmental entities that are working fast and furious. While the State of Texas is in the lead, and the State of Texas has plenty of people power to move the machine, some of the other states do not have such dedicated large-budget AG offices, and so it's still a difficult process fully. And, yes, a bit of a moving target for all of us, but one where we are keeping that target as live and fully up to date as we can as we go along. We'll continue to do so.

And if Google's got a complaint, we've got a wonderful process in place right now with Special Master David Moran. And I have no doubt, just as he had told us -- we told him on March 7th that we would amend our answers, and then we did March 15th, within the timeline he gave us. He -- we've probably made more progress in the last month working through this stuff with him than we have in the prior ten months at least, because he's very hands on. And that's a process that will be in place for this as well should it look like our target needs to move some more. Thank you.

THE COURT: All right. Thank you, Mr. Lanier.

Mr. Yetter, any followup on this issue? I mean, I'll note that it does certainly appear to me that, from my review of the filings before the Court and the proceedings before the special master, that a lot of progress has been made on discovery issues. That's not to say there aren't things I can see that you're still working on. I've read the most recent status reports, coming in yesterday and today. So I know there's issues you're working on, but it seems to me you've made a lot of progress.

So Mr. Yetter, you wanted to follow up?

MR. YETTER: Two brief comments, Your Honor. Counsel is right that the Court's direction that the plaintiffs identify a little bit more specifically who represents whom has helped. It doesn't mean that we're communicating perfectly on all things, but that is the nature of complicated, complex litigation like this.

And, secondly, we are appreciative that the Court asked Special Master Moran to give up his entire private law practice so that he could be the special master in this case, because it has -- I don't know how he has kept up any of his law practice, but it is -- and I don't want to break the suspense for our hearing with the special master, but there are a few issues that we need a little bit of guidance from him on. But, otherwise, we very much appreciate his service and the Court's guidance on all this.

THE COURT: All right. Thank you, Mr. Yetter.

Mr. Lanier, one other thought I had and would like to get your comment on is whether or not it makes sense at some point for perhaps the States to file some sort of advisory on where we are currently with regard to what's being claimed by each state or what, you know, claims are being -- are continuing to be pursued and what capacity.

I know you have the answers. You've been going through the discovery part of that. And I will say that the filing you referenced before, that really had to do with making sure there wasn't any confusion about the authority the State and the States' counsel have. And I know, Mr. Lanier, your firm and Mr. Keller's firm represent more than -- or are involved with more than one state, and the State of Texas has a coordinating role. But I thought that the filing you made was very thorough. My sense is, and hope was, that there wouldn't be confusion anymore about that.

So I only raise this issue with you because we have had a lot of discussion, and Mr. Yetter's mentioned today and so have you, about, you know, where the states are in terms of claims being pursued and in what capacity -- or I should say damages or remedies. Let's talk about in terms of remedies being pursued.

MR. LANIER: Judge, what you're asking for is a document of clarity.

THE COURT: Yes.

MR. LANIER: And I think clarity is incredibly useful to me, too. I'd love to see that document. So I'm going to go out on a limb and tell my team that at your encouragement, we will produce such a document. And I don't know how quickly we can do it. And recognize that we do represent a good number of these entities, but, for example the -- Mr. Yetter had mentioned about Puerto Rico not producing any document retention policies. You know, Hausfeld represents Puerto Rico; we do not. And Hausfeld has told Google, Puerto Rico doesn't have a document retention policy to produce. And so, you know, we're having to juggle he said/she said within the confines of this.

And I think if you were to tell us to put together such a document, that it would enable us to not only do it for ourselves and those we represent, but it would also put a wonderful opportunity on the shoulders of those we do not represent to also help and assist in that regard. So that would be great.

THE COURT: And, Mr. Lanier, you did talk about time frames. So if the Court -- because my initial thought was it was something you might all just want to sua sponte file, but I can also -- based on your comments, we can also enter an order. And in terms of a time frame, you can let me know. Do you think two weeks? Do you think longer than that

would be needed?

MR. LANIER: I think at least -- my people over here are telling me two, but I've got people on the phone and people not here. If I could have three, and we'll get it done before our next conference.

THE COURT: All right. So we're looking at more like 21 days, and the Court will plan to get some order out on that.

So we've covered, counsel, all the topics that we had for our status conference. And I know you have another one immediately after this one.

Is there any other issue we need to discuss today, Mr. Lanier?

MR. LANIER: Not from plaintiff, Your Honor.

MR. YETTER: No, not for Google, Your Honor. Thank you.

THE COURT: All right. And I will add the additional reminder that was brought up at the beginning of the hearing, which is that our next status conference will be a full day for us because we have the conference in the morning, and then at least at the moment we have arguments scheduled for the afternoon on the pending dismissal motions, subject to any -- if there is a need for some sort of supplement or additional briefing, which I'm not suggesting that needs to happen, but it sounds like that's a

possibility. But for the moment, we're ready to go next month on both.

And I appreciate your discussion and arguments today. They are very helpful for the Court. And we have orders that we'll be planning to get out on the pending stay motion and then on the other issue we discussed regarding remedies sought by the States.

All right. We'll stand in recess. Thank you, counsel.

(Adjourned at 11:16 a.m.)

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CERTIFICATE OF OFFICIAL REPORTER

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Dated 24th day of March 2024.

/s/ Gayle Wear
GAYLE WEAR, RPR, CRR
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